CITY OFFICIALS

W. Greg Nelson, Mayor Richard Cardoza, Council President Briana Buban-Vonder Haar, Council Member Pat Jones, Council Member Joe Stear, Council Member

CITY OF KUNA

Regular City Council Meeting Minutes Tuesday, July 7, 2015

Kuna City Hall Council Chamber, 763 W. Avalon Street, Kuna, Idaho

7:00 P.M. REGULAR CITY COUNCIL

1. Call to Order and Roll Call

COUNCIL MEMBERS PRESENT: Mayor W. Greg Nelson

Council President Richard Cardoza

Council Member Briana Buban-Vonder Haar

Council Member Pat Jones Council Member Joe Stear

CITY STAFF PRESENT: Gordon Law, City Engineer

John Marsh, City Treasurer Chris Engels, City Clerk

Wendy Howell, Planning & Zoning Director

Richard Roats, City Attorney Bobby Withrow, Parks Supervisor Bob Bachman, Fleet/Facilities Manager

2. Invocation: Chris Bent, Calvary Chapel

3. Pledge of Allegiance: Mayor Nelson

4. Consent Agenda:

(Timestamp 00:01:30)

All items listed under the Consent Agenda are considered to be routine and are acted on with one motion by the City Council. There will be no separate discussion on these items unless the Mayor, Council Member, or City Staff requests an item to be removed from the Consent Agenda for discussion. Items removed from the Consent Agenda will be placed on the Regular Agenda under Old Business or as instructed by the City Council.

A. City Council Meeting Minutes:

NOTICE: Copies of all agenda materials are available for public review in the Office of the City Clerk. Persons who have questions concerning any agenda item may call the City Clerk's Office at 922-5546. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at 922-5546 at least forty-eight (48) hours prior to the meeting to allow the City to make reasonable arrangements to ensure accessibility to this meeting.

- 1. City Council Workshop Minutes June 16, 2015
- **2.** Regular City Council Minutes June 16, 2015
- **B.** Accounts Payable Dated July 1, 2015 in the Amount of \$541,992.63
- **C.** Alcohol Licenses:
- **D.** Findings of Facts and Conclusions of Law:

Council President Cardoza asked if the repairs to the snack shack were on City property or private.

Mayor Nelson said it was City property.

Police Chief Justin Dusseau said there would be restitution asked for from the parties responsible for the damage.

Council Member Stear moved to approve the consent agenda as presented. Seconded by Council Member Buban-Vonder Haar with the following roll call vote:

Voting Aye: Council Members Cardoza, Jones, Buban-Vonder Haar and Stear

Voting No: None Absent: None

Motion carried 4-0.

5. Citizen's Reports or Requests:

(*Timestamp 00:03:10*)

- **A.** Proclamation of Recommitment to Full Implementation of the Americans with Disabilities Act Mayor Nelson read the Proclamation and proclaimed Friday, July 17, 2015 in the City of Kuna to be Americans with Disabilities Act Awareness Day
- **B.** Request for \$60.00 Fee Waiver for Bernie Fisher Park Chris Bent, Calvary Chapel

Calvary Chapel Kuna requests a fee waiver (\$50.00 band shell and \$10.00 electricity) for Church Service/Picnic/Baptism on July 19, 2015 from 8:00 a.m. to 4:00 p.m. Open to public.

Pastor Chris Bent explained that it was an all-day event with a service, food and baptism and will be open to the public.

Motion from Council Member Stear failed for lack of a second and the topic was open to discussion.

Council Member Stear said he attended last year and thought it was a good event.

Mayor Nelson pointed out the event was open to the public and was eligible for a fee waiver.

Council President Cardoza stated he was concerned about separation of church and state on an issue like this.

Council Member Buban-Vonder Haar stated she had no problems with the picnic but feels uneasy about the church services.

Council Member Jones stated park fees have been placed to help offset the cost to the City to maintain the park areas. He feels fee waiver requests are getting worse and worse and costs the City money to maintain the parks. The fees are very reasonable and the line needs to be drawn to not approve waivers. If waivers are going to continue, then the fees should be removed completely. Otherwise the City is asking citizens to make a donation to whichever entity is using the park facilities.

Council Member Buban-Vonder Haar stated her guiding criteria for fee waivers is if it is something that is open to the entirety of Kuna and if it benefits the community in some way. The concept of the fees is to have the use of an area to the exclusion of everyone else. Would establishing lower fees for non-profit organizations be helpful?

Council Member Jones stated he had no problem with compromise but the fee waiver subject needs to be revisited sometime after the summer months due to the fact that some waivers have already been approved for the summer months. Expenses keep going up to maintain the facilities and the chance to recoup some of those expenses is being waived.

Council Member Stear reiterated that he attended this event last year and does not see anything wrong with this type of request from this organization. His feeling is this is not a donation of fees it is a non-collection of fees.

Mayor Nelson asked if anyone would care to second. Motion died for lack of a second.

Council Member Buban-Vonder Haar asked Council President Cardoza if he would be agreeable to just a picnic.

Council President Cardoza responded yes, he would be agreeable. The fact that it is a church service and baptism isolates the event from the community to a certain degree and worries him regarding the issue of church and state. If it were strictly a public picnic there would be no problem. Council President Cardoza extended an invitation to Pastor Bent to come by his office and he would be glad to donate \$60.00 to the church.

Council Member Jones stated he had no problem with approving this now. He would like to re-visit the subject of fee waivers at a future time.

Council Member Buban-Vonder Haar stated that there were votes to approve the picnic but not the service. Would Pastor Bent be interested in having just the picnic approved or would it be all or nothing for him?

Pastor Bent responded that the whole purpose of having the services outdoors was to be able to invite the public. He apologizes for the issue this has created.

Council Member Jones asked Pastor Bent about the baptism portion and that his assumption would be that the public could not just decide to be baptized on that day without meeting certain requirements with the church.

Pastor Bent responded that was not the case.

Council Member Buban-Vonder Haar stated that even if the fee waiver was denied, the park could still be reserved for exclusive use by the church if the fees are paid.

Mayor Nelson is sorry to report the motion to approve the park fee waiver for Calvary Church was denied.

Pastor Bent asked if he could say one more thing. He appreciates the Council's time and he appreciates the Council's sincere consideration. He will abide by and honor the Council's decision which in no way reflects on he feels about the Council, he still loves them and invites everyone to attend the services and picnic.

C. Request for \$100.00 Fee Waiver for Senior Center – Dave Lyon, VFW

Kuna VFW Post 7019 requests a fee waiver for the Veterans Breakfast on November 7, 2015 from 6:00 a.m. to 12:00 p.m. Open to public.

Dave Lyon from the VFW 7019 and is requesting a fee waiver for the Veterans Breakfast and will be open to the public. Money made on VFW fund raisers goes to the veterans and community service. The VFW donates to the Boise Veterans Medical Center, VFW Children's Home, Salvation Army, Kuna Food Bank, Boise Rescue Mission, and Ada County Sherriff's Domestic Fund (Kuna Police). All of the funds the VFW has beyond expenses go to those charities as well as others.

Council Member Buban-Vonder Haar asked what the costs were.

Mr. Lyon responded there is a charge of \$7.00 per adult, children 6 - 10 years \$3.50 and children under 6 years are free.

Council President Cardoza asked if it was the VFW or American Legion does the flags at the cemetery.

Mr. Lyon indicated it was the American Legion.

Council Member Jones stated, during the motion that his concern for the Senior Center is it seems the Seniors are the only ones paying for its use. He will vote yes but would like to the subject of fee waivers addressed at some point.

Council Member Buban-Vonder Haar stated, during the motion that due to the breakfast having a cost attached, it is not truly open to the public. She will vote yes

Council Member Stear moved to approve Fee Waiver. Seconded by Council President Cardoza with the following roll call vote:

Voting Aye: Council Members Cardoza, Jones, Buban-Vonder Haar and Stear

Voting No: None Absent: None

Motion carried 4-0.

- **6. Public Hearings:** (7:00 p.m. or as soon thereafter as matters may be heard.)
 - **A.** Request to table until July 21, 2015 due to publication error Richard Roats, City Attorney

(*Timestamp 00:30:12*)

Public Hearing and Consideration of Resolution R26-2015 to Amend Park Fee Schedule for Parks and Public Property

A RESOLUTION OF THE CITY OF KUNA, IDAHO AMENDING RESOLUTION NO. R80-2014 TO ADD FEES FOR THE USE OF THE DISC GOLF, VOLLEY BALL COURT, HORSESHOE PIT AND COVERED TABLES AT PARKS OTHER THAN BERNIE FISHER PARK, AND DELETING THE CLEANING AND DAMAGE DEPOSIT PROVISION FROM THE CITY PARK AND CITY PUBLIC PROPERTY PARK USE FEE SCHEDULE, AND PROVIDING AN EFFECTIVE DATE.

Council Member Stear moved to table Public Hearing and Consideration of R26-2015. Seconded by Council Member Buban-Vonder Haar, all voting aye. Motion carried 4-0.

7. Business Items:

A. Presentation of FYE 2016 Budget Request, Ada County Sheriff – Justin Dusseau, Kuna Police Chief

(*Timestamp 00:31:09*)

Kuna Police Chief Justin Dusseau explained he is committed in every way to not only the safety of this community but also to be responsible in managing business well. That being said, at this time he is asking for just a shade under a 3 percent

increase. Overall, the biggest portion of the increase comes from Health, Retirement and COLA. The Kuna Police has not had a cost of living adjustment in 2 years. A 2 percent COLA is anticipated for the Ada County Sheriff Department. Kuna Police, as a contracted service, requires Chief Dusseau to add that amount to the 2016 budget request and present that increase to the Council. 97 percent of the 3 percent budget increase is due to Health, Retirement and COLA. Vehicle maintenance, fuel and replacement cost decreased. Operating expenses also decreased. The Trauma Intervention Program was introduced last year. The fee was covered by the County last year but it was necessary to be added to the Kuna Police budget for 2016. This cost was offset by budget decreases in other areas. On Body Video and the required components were added. Equipment needs to be purchased for detectives and the K9. Calls for service have increased.

Chief Dusseau stood for questions.

Council Member Stear complimented the Chief for how his budget was assembled.

Council President Cardoza thanked the Chief for the give and take of the budget to offset the increase.

Council Member Jones stated he thinks the Kuna Police do a great job. He understands the expense of vehicles and asked if there are any motorcycles.

Chief Dusseau explained there used to be but the effectiveness of motorcycles due to factors such as safety, night patrols, seasonal weather and lack of being able to transport anyone make vehicles a more bang for the buck choice.

Council Member Jones feels that if there is a request for the city to purchase a vehicle that the city should own the vehicle. He asked if there is a possibility to obtain a surplus vehicle.

Chief Dusseau explained there is always that possibility. He would need to explore some different avenues and ideas and come back with that information.

Mayor Nelson said he drives the vehicle that was provided frequently. He commented that the TIP programs is excellent and appreciates Chief Dusseau for including it in the budget. Mayor Nelson also stated that he appreciates all the good work of Chief Dusseau.

B. Presentation of FYE 2016 Budget Request, Ada County Prosecutor—Tamera Kelly, Deputy Prosecutor (*Timestamp 00:48:43*)

Tamera Kelly, Deputy Prosecutor for the Ada County Prosecuting Attorney. The budget request of the fiscal year 2016 for \$51,711 which is slight decrease over the year. There has been a reduction in cases prosecuted which is reflected in the decreased budget request.

Ms. Kelly stood for questions.

Council Member Buban-Vonder Haar asked why the revenue increases between FY 2011 and FY 2015 has gone down over 55 percent but expenses have increased over 9 percent.

Ms. Kelly explained that she does not have an exact answer but *unintelligible comment* for the City of Kuna did decrease. Her educated assumption would be that part would be the reduction in cases but not a significant contributor. Part is that the Prosecutor's Office allows some people that have an infraction ticket to take a class called Alive After 25 and the citation is dismissed. Another part would be the Prosecutor's office main focus is our community safety; fine collection is less of a priority.

Council Member Jones asked if there was a fee for the Alive After 25 class.

Ms. Kelly responded the class is not done through their office but the class is free.

Council Member Jones expressed he was concerned with the decrease in revenue. He feels heavy fines are a deterrent to offenders to not re-offend.

Ms. Kelly responded that she would agree with Council Member Jones in some cases. The Prosecutor's Office makes requests to judges but are left with the decision the judge makes in regard to that request.

Council President Cardoza asked if the cost included the possible COLA from Ada County.

Ms. Kelly responded no, the cost is for attorney salaries. Ms. Kelly does not believe that the expected COLA increase from the Ada County Commissioners applies to the Prosecutor's Office. If it does apply, that is not part of the budget request, the budget request will remain as submitted.

C. June Construction Report (*no action required*) – Gordon Law, City Engineer (*Timestamp 00:59:29*)

City Engineer Gordon Law noted the item number 1 is Well number 11. That drilling project has progressed and the well is mostly developed and ready to proceed to the next step. There will be an amendment to the FY 2015 budget to complete the project and get Well 11 on line. There has been an irrigation project on Avenue B and 2nd Street that has taken longer than was expected. Mr. Law has spoken with the contractor to keep the project moving along. He stood for questions.

Council President Cardoza asked where Well 11 is located.

Mr. Law said it was in Butler Park.

Council President Cardoza asked if Well 11 is next to Well 3.

Mr. Law explained yes, it is.

Council President Cardoza asked if Well 3 had problems with sulphur, wouldn't the same problem affect Well 11?

Mr. Law explained the water for Well 11 is being pulled from a different level to avoid those problems.

Council Member Buban-Vonder Haar indicated that she had received comments that trucks from a pressurized irrigation project at Walnut Creek subdivision tore up grass.

Mr. Law clarified possibly the location is the frontage right next to Ten Mile Rd? If the person or people could call him directly, he will correct what needs to be fixed.

Council Member Jones asked if the saw cutter was used.

Mr. Law confirmed it was.

D. Update on proposed Park Impact Fee Committee members and resolution (continued from June 16, 2015) – Richard Roats, City Attorney (Timestamp 01:04:40)

City Attorney Richard Roats explained that he would like to request the item be tabled to July 21, 2015

Council Member Stear moved to table to July 21, 2015. Seconded by Council Member Buban-Vonder Haar, all voting ave. Motion carried 4-0.

E. Consideration to approve Resolution R31-2015. Ada County Highway District Linder/Main/3rd Street Roundabout Project – Richard Roats, City Attorney (*Timestamp 01:5:47*)

A RESOLUTION OF THE CITY OF KUNA, IDAHO APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE ACQUISITION DOCUMENTS RELATED TO THE CONSTRUCTION OF THE ROUNDABOUT AT LINDER/MAIN/3RD STREETS, KUNA, IDAHO WITH THE ADA COUNTY HIGHWAY DISTRICT PROJECT NO. 313043

City Attorney Richard Roats explained there were questions and concerns regarding this project at the June 16, 2015 Council Meeting. There has since been a meeting at the proposed project site with ACHD and Project Manager Ryan Cutler. An

aerial map of the project area was provided to Council. The answer to Council President Cardoza's June 16th question regarding no receipt of compensation to the City for the right of way is that in October 2012, the City of Kuna and ACHD entered into an intergovernmental agreement in which neither party would charge each other fees. ACHD receives the right of way at no cost but the City also receives the benefit of not being charged certain fees from ACHD that we were required to pay in the past. Mr. Roats clarified the flag markers and line markings on the aerial map. Mr. Roats addressed the June 16th questions about accesses for the businesses in the project area. All businesses will retain their accesses with some directional or placement changes.

Mr. Roats stood for questions.

Council Member Buban-Vonder Haar asked about the large portion of the city park being taken out and why the roundabout couldn't be moved toward the north east corner.

Mr. Roats responded he was not qualified to comment on the design work of the project. There is currently ACHD right of way on the south west area where the city park is located.

City Engineer, Gordon Law commented there was some placement discussion in the committee meetings to maintain the businesses accesses.

Council Member Jones asked who owns the alley way next to the Car Wash on Linder Rd. His concern is the property has now become landlocked. Council Member Jones' main question is if ACHD is open to modifying the design or are we at a point where modifications are not an option.

Mr. Roats responded it is his understanding that we are past the point of modifications.

Council Member Jones pointed out there did not seem to be designated bike lanes in the roundabout.

Mayor Nelson asked if it could be asked of ACHD to provide an access point in the sidewalk to the landlocked property.

Mr. Roats asked the City Clerk, Chris Engles, to pull the original packet that has several maps showing right of ways and easements.

Council Member Jones asked if the consideration to approve Resolution R31-2015 could be tabled until the Council's questions are answered regarding ACHD's willingness to move the circle.

Mayor Nelson asked if tabling until the next Council meeting would interfere with any of ACHD's time frames.

ACHD's representative responded it would not interfere.

Council Member Stear asked if all the property owners affected by the construction had been contacted.

City Engineer, Gordon Law responded yes.

Council Member Jones asked that verification be made that all property owners had been contacted. He has concerns regarding communication with some of the property owners.

Council President Cardoza asked if the landlocked property could be donated by ACHD to the City. The City could develop it as a small common area or park.

Planning and Zoning Director, Wendy Howell stated that at this time, the placement of the roundabout is within ACHD easements. If the placement was shifted either East or Southeast it will encroach on private property with potential of having to purchase that property. The roundabout is not encroaching on the park; it is part of ACHD's right of way.

Council Member Buban-Vonder Haar moved to table Resolution R31-2015 to July 21, 2015. Seconded by Council Member Jones, all voting aye. Motion carried 4-0.

F. Consideration to approve Resolution R34-2015. Intersection Improvements Located at Linder and Deer Flat – Gordon Law, City Engineer (*Timestamp 01:38:01*)

A RESOLUTION OF THE CITY OF KUNA, IDAHO FINDING NO ADVERSE AFFECT TO THE FARM ESTATES PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE U.S. DEPARTMENT OF TRANSPORTATION SECTION 4(F) DE MINIMIS IMPACT FINDING FOR PUBLICLY OWNED PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES AND THE LETTER STATING THAT THE PROJECT'S IMPACTS TO THE FARM ESTATES PARK WILL NOT "ADVERSELY AFFECT THE ACTIVITIES, FEATURES AND ATTRIBUTES" OF THE SECTION 4(F) RESOURCE.

City Engineer Gordon Law explained there is an easement for drainage purposes in that park. However, funding for the project is Federal so there still must be a determination made that the project is not a detriment to the park in its normal uses, landscape, etc. in order to receive funding. That determination has been made. In order to proceed further, Resolution R34-2015 is before the Council.

Council Member Jones commented during the motion. He asked if the park area would be returned to its original state when the project was complete.

City Engineer, Gordon Law responded yes, that is his understanding.

Council Member Stear moved to approve Resolution R34-2015. Seconded by Council Member Buban-Vonder Haar with the following roll call vote:

Voting Aye: Council Members Cardoza, Jones, Buban-Vonder Haar and Stear

Voting No: None Absent: None Motion carried 4-0.

G. Discussion to change official City email address extension from .com to .gov or .org – John Marsh, City Treasurer

City Treasurer John Marsh explained as part of the implementation of the new timekeeping system, there is a requirement to re-up on an SSL certificate. There will be a redirect for current city email addresses for one year. Mr. Marsh would like to recommend changing the City email addresses from .com to .gov.

Council agreed to change to .gov.

8. Ordinances:

A. Second Reading of Ordinance No. 2015-10 Modify Mayor's Position to Full time with Compensation

(Timestamp 01:46:30)

Consideration to waive three readings Consideration to approve ordinance Consideration to approve a summary publication of the ordinance

AN ORDINANCE OF THE CITY OF KUNA, IDAHO, AMENDING SECTION 1-5-2 OF THE KUNA CITY CODE, ENTITLED SALARY (MAYOR); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

B. First Reading of Ordinance No 2015-12 <u>Idaho Power Franchise Agreement</u> (Timestamp 01:47:37)

Consideration to waive three readings Consideration to approve ordinance Consideration to approve a summary publication of the ordinance

AN ORDINANCE IN ACCORDANCE WITH IDAHO CODE SECTIONS 50-328, 50-329 AND 50-329A GRANTING A FRANCHISE TO IDAHO POWER COMPANY, AN IDAHO CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN AND OPERATE IN AND UPON THE PRESENT AND FUTURE STREETS, HIGHWAYS AND OTHER PUBLIC

PLACES WITHIN THE CORPORATE LIMITS OF THE CITY OF KUNA, IDAHO, ELECTRIC UTILITY PROPERTY AND FACILITIES FOR SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY, THE INHABITANTS THEREOF, AND OTHERS FOR A TERM OF 20 YEARS, INCLUDING THE NONEXCLUSIVE RIGHT TO PHYSICALLY LOCATE AND MAINTAIN TELEPHONE, CABLE, FIBER OPTICS OR OTHER COMMUNICATIONS FACILITIES; SETTING FORTH AN AGREEMENT NOT TO COMPETE, RESERVING POWER OF EMINENT DOMAIN; PROVIDING FOR THE PAYMENT OF FRANCHISE FEES; AND SPECIFYING OTHER LIMITATIONS, TERMS AND CONDITIONS GOVERNING THE EXERCISE OF SAID FRANCHISE.

City Attorney Richard Roats explained there was some negotiation with Idaho Power. Mr. Roats would like it noted the caption should read, for a term of 10 years not 20 years. There is a zero percent franchise fee. There are still changes that need to be made.

Council Member Buban-Vonder Haar asked what the benefit to the City?

Mr. Roats responded; a franchise fee. There is the thought of perhaps looking at a license agreement for the rights of way but Idaho Power likes franchise fees.

Council Member Buban-Vonder Haar prefers not to sign the agreement. She does not see a benefit to the City and has the potential to actually be restricting to the City.

Mayor Nelson has concerns about the statement in the contract regarding an agreement not to compete. There are changes in the future regarding energy production that would make an agreement like this restricting to the city. He would like a better explanation for that particular statement. His recommendation would be not to sign at this time.

Council Member Jones asked for clarification that there is nothing to prevent the City from growth or restrictions set in place by Idaho Power if the agreement is not signed.

Mr. Roats responded Idaho Power is regulated by the PUC so they must provide their services. He will make the changes to the agreement that have been discussed as well as speak them about further explanation of the agreement.

Council Member Cardoza asked for clarification regarding Section 10. It is his understanding Section 10 takes away the authority of the Council to impose a franchise fee; it would have to go to a vote of the people.

Mr. Roats explained that would be the case if the franchise fee was between 1 and 3 percent. The Council can impose a 1 percent franchise fee; anything above 1 percent would have to be approved by the simple majority of voters.

9. Mayor/Council Discussion Items:

Mayor Nelson explained previously as new subdivisions were developed, the City has always looked at drainage canals and ditches and asked developers to maintain their flow through the developing property. There have been a couple of situations in which inadequate construction processes have taken place that have caused issues. His recommendation is to change some ordinances to require drainage plans to be approved by the City Engineer. If Council is agreeable, City Attorney Richard Roats will work on an ordinance.

Council agreed.

Council Member Jones asked about the past discussions regarding compensation for the towers hosting antennas that don't belong to the city.

City Attorney Richard Roats explained Safelink is the internet company that utilizes the water tower for their antenna. There has not been a follow up since the initial negotiations took place. He will follow up as soon as possible.

City Clerk Chris Engels asked if the Council would like to schedule the upcoming City budget meetings during daytime hours to not impose on evenings.

Council agreed to schedule the budget meetings for 4:00 p.m. beginning Monday, July 13, 2015.

10. Announcements:

11. Executive Session:

12. Adjournment:

Council Member Stear moved to adjourn the meeting at 9:15 p.m. Seconded by Council Member Jones, all voting aye. Motion carried 4-0.

	W. Greg Nelson, Mayor
ATTEST:	
Chris Engels, City Clerk	
Minutes prepared by Dawn Stephens Date Approved: CCM 07.21.2015	